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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,729	03/14/2005	Ralph Stripling	OT-5075	8865
26584 7590 04/29/2009 OTIS ELEVATOR COMPANY INTELLECTUAL PROPERTY DEPARTMENT 10 FARM SPRINGS FARMINGTON, CT 06032				
EXAMINER				
NICHOLSON III, LESLIE AUGUST				
ART UNIT		PAPER NUMBER		
3651				
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04/29/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RALPH STRIPLING, DIETMAR THALER,
FRANK M. SANSEVERO, BERNWARD ENGELKE,
ANDREAS STUFFEL, PETER VON RIEGEN,
MARKUS MULLER, OLAF MARKER, CARSTEN DESENISS,
INGO ENGELHARD, and UWE HAUER

Appeal 2009-0478
Application 10/527,729
Technology Center 3600

Decided:¹ April 29, 2009

Before JENNIFER D. BAHR, LINDA E. HORNER, and
JOHN C. KERINS, *Administrative Patent Judges*.

HORNER, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

Ralph Stripling et al. (Appellants) seek our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 1-5 and 9-11. The Examiner objected to claims 6 and 7 as being dependent upon a rejected base claim. Claim 8 has been cancelled. We have jurisdiction under 35 U.S.C. § 6(b) (2002). We REVERSE.

Appellants' claimed invention is a people mover (an escalator). Spec. 1:1-5.

Appellants seek review of the Examiner's rejection of claims 1-4, 10, and 11 under 35 U.S.C. § 103(a) as unpatentable over: U.S. Patent No. 5,622,246 to Kubota (issued Apr. 22, 1997) and U.S. Patent No. 4,863,006 to Kotkata (issued Sep. 5, 1989). Appellants also seek review of the Examiner's rejection of claim 5 under 35 U.S.C. § 103(a) as unpatentable over: Kubota, Kotkata, and U.S. Patent No. 6,601,688 B1 to Stöxen (issued Aug. 5, 2003). Appellants also seek review of the Examiner's rejection of claim 9 under 35 U.S.C. § 103(a) as unpatentable over Kubota, Kotkata, and U.S. Patent No. 6,267,219 B1 to Spannhake (issued Jul. 31, 2001).

The Examiner found that Kubota discloses the device of claim 1, including flange elements (410, 430) movably connected to bridge elements (412, 423), except that Kubota does not disclose a noncontact sensor arranged adjacent to the side skirt. Ans. 3-4, 6-7. The Examiner also found that Kotkata discloses a sensor arranged adjacent to the side skirt. Ans. 4. The Examiner concluded it would have been obvious to a person of ordinary skill in the art to employ the noncontact sensor of Kotkata in the device of Kubota "for the purpose of detecting a problem with the escalator." Ans. 4.

Appellants contend that Kubota does not disclose “bridge elements connected movably relative to the flange elements” as recited in claim 1. Reply Br. 2.

The issue presented by this appeal is whether the Appellants have shown the Examiner erred in determining that Kubota discloses bridge elements movably connected relative to flange elements.

Kubota discloses a rear arcuate abutting portion 410 (“flange”) integrally formed in upper link 412 (“bridge”), and likewise a front arcuate abutting portion 430 integrally formed in upper link 423. Kubota, col. 3, ll. 24-25, 38-39; Fig. 1. In other words, each flange is not movably connected relative to each bridge, because each bridge and corresponding flange is one integral piece. As such, Appellants have shown the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) as unpatentable over Kubota and Kotkata.² Further, the rejection of dependent claims 2-5 and 9-11 is also in error by virtue of their dependence from claim 1.

We reverse the decision of the Examiner to reject claims 1-5 and 9-11.

REVERSED

vsh

² The Examiner did not rely on Kotkata for teaching tread elements having bridge elements connected movably to flange elements. Ans. *passim*.

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